

Before the Board of Zoning Adjustment, D. C.

Application No. 11771, of Edward T. & Shirley Morgan; Charles D. & Mary Lamb, and Bell Transportation Group Tension Trust, pursuant to Section 8207.2 of the Zoning Regulations for a special exception to permit an accessory parking lot (for the principle use of a theater proposed at 2467 18th Street, N. W.), as provided by Section 5102.45 in the C-2-B Zone at the premise 2417, 2419, 2421 18th Street, N. W., Known as lots 90, 91 and 92, in Square 2560.

HEARING DATE : November 20, 1974

EXECUTIVE SESSION: January 21, 1975

FINDINGS OF FACT:

1. The proposed use would be accessory to a principle use (theater) which is permitted in the C-2-B Zone as a matter of right.

2. The applicants propose to use the subject property for the parking of fourteen (14) automobiles.

3. Citizen opposition at the public hearing of this application focused on three (3) issues;

a. Contentions that the subject property should be developed to provide for residential uses needed in the neighborhood.

b. That the community was not involved in the planning of the proposed theater to which the requested parking lot would be accessory.

c That the proposed use is not in harmony with the purpose of the C-2 Zoned District.

4. The Board finds, that although the proposed principle use related to this application is permitted as a matter of right, the structure which would contain the theater use does not exist, nor has a building permit been issued for construction of that structure.

5. The Board finds that the lot upon which the principle use is located is unimproved except for a facade

of a once existing building.

6. The Board finds that the proposed building, to would be substantially a **new** structure because in order to operate the principle use the applicant would have to erect remaining three (3) walls from the ground up.

7. The applicant testified at public hearing that the proposed structure would consist of a partial one (1) story building. The applicant also stated that the structure which would contain the principle use is not existing.

8. The Board takes notice of the fact that Section 5102.55 of the Zoning Regulations requires that all new buildings to be erected in the C-2-A and C-2-B Zone Districts shall not be less than three stories in height.

#### CONCLUSIONS OF LAW & OPINION

Based upon the above Findings, the Board is of the opinion that requested special exception cannot be granted. In deciding whether or not to grant this request for accessory parking, the Board must consider the principle use to which it would be accessory. The facts indicate that at this time the principle use does not exist, nor does a building permit exist for the construction of said principle use. The Board concludes that the proposed building which would contain the principle use does not comply with the requirements of Section 5102.55 which requires new buildings to be limited to three (3) stories in height. This application, although it requests an accessory use, has not established the existence of a principle use or probable existence of one, therefore, there is nothing to which the parking lot in question can be accessory without a hybrid use-area variance being approved by this Board. The Board concludes that this application, if granted, would be contrary to Section 8207.2 of the regulations by permitting an accessory use to a principle use, which is not in existence by reason that the structure in which it would operate is not one permitted in the **C-2** Zone by these regulations. Therefore, the Board concludes that the granting of this application would not be in conformity with the harmony and general purpose of the Zoning Regulations as required by the regulations.

Application No. 11771

Page 3

ORDERED: That the above application be DENIED.

VOTE : 4-1 (Mr. Klauber Dissenting)

BY ORDER OF THE **BOARD** OF ZONING ADJUSTMENT

ATTESTED By:

James E. Miller

JAMES E. MILLER  
Secretary to the Board

FINAL DATE OF ORDER: MAR 21 1975